

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ROBERT J. PATTERSON, individually and as representative  
of a class of similarly situated persons of the Morgan Stanley  
Retirement Plan,

Plaintiff,

v.

MORGAN STANLEY, Morgan Stanley Domestic Holdings,  
Inc., Morgan Stanley & Co., LLC, Morgan Stanley Retirement  
Plan Investment Committee, and John Does 1–30,

Defendants.

Case No. 1:16-CV-6568 (RJS)

**NOTICE OF MOTION  
AND MOTION  
TO DISMISS THE  
AMENDED COMPLAINT**

PLEASE TAKE NOTICE THAT, pursuant to the ORDER of this Court (ECF No. 59), and on a date and at a time designated by the Court, before the Honorable Richard J. Sullivan at the Thurgood Marshall United States Courthouse for the Southern District of New York, 40 Foley Square, Room 2104, New York, New York 10007, Defendants Morgan Stanley, Morgan Stanley Domestic Holdings, Inc., Morgan Stanley & Co., LLC, and Morgan Stanley Retirement Plan Investment Committee will and hereby do move for an Order dismissing with prejudice Plaintiff's Amended Complaint (ECF No. 62).

Defendants bring this motion under Federal Rules of Civil Procedure 12(b)(6) and 12(b)(1), on the grounds that Plaintiff's lack of standing deprives this Court of subject matter jurisdiction and that Plaintiff has failed to plead sufficient facts to state a claim on which relief can be granted. This motion is based on this Notice of Motion, the concurrently filed Memorandum in Support of Defendants' Motion to Dismiss, the concurrently filed Declaration

of Meaghan VerGow and exhibits attached thereto, the pleadings in this action, and such other evidence or argument that the Court may consider at or before the hearing on this motion.

Dated: February 9, 2017  
Washington, DC

Respectfully submitted,

/s/ Meaghan VerGow  
Brian D. Boyle, *admitted pro hac vice*  
Shannon M. Barrett, *admitted pro hac vice*  
Meaghan VerGow, *admitted pro hac vice*  
O'MELVENY & MYERS LLP  
1625 Eye Street, N.W.  
Washington D.C. 20006  
Telephone: (202) 383-5300  
Facsimile: (202) 383-5414  
bboyle@omm.com  
sbarrett@omm.com  
mvergow@omm.com

Pamela A. Miller  
O'MELVENY & MYERS LLP  
Times Square Tower  
7 Times Square  
New York, NY 10036  
Telephone: (212) 326-2000  
Facsimile: (212) 326-2061  
pmiller@omm.com

*Attorneys for Defendants*